

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

Eastern Division

PENNYMAC LOAN SERVICES, LLC,

Plaintiff,

-vs-

INNOVATED HOLDINGS, INC. dba SITCOMM
ARBITRATION ASSOCIATION; MARK
MOFFETT; SANDRA GOULETTE; RONNIE
KAHAPEA; MARK JOHNSON, KIRK GIBBS;
BRETT “EEON” JONES aka EEON aka BRETT
JONES aka BRETT TORIANO
JONESTHEOPHILIOUS aka BRETT RANDOFF
TORIANO KEEFFE HENRY KANA-SHAPHEL
HITHRAPPEES JONES-THEOPHILUS fka KEEFFE
BRANCH; and RANCE MAGEE,

Defendants.

CIVIL ACTION

Case No: 2:19-cv-00193-TBM- MTP

**PLAINTIFF PENNYMAC LOAN
SERVICES, LLC’S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST DEFENDANTS RONNIE
KAHAPEA AND MARK JOHNSON**

**PLAINTIFF PENNYMAC LOAN SERVICES, LLC’S MOTION FOR PARTIAL
SUMMARY JUDGMENT AGAINST DEFENDANTS RONNIE KAHAPEA AND MARK
JOHNSON ON PLAINTIFF’S FIRST AND SECOND CAUSES OF ACTION**

COMES NOW plaintiff, PennyMac Loan Services, LLC (“PennyMac”) to file its Motion for Partial Summary Judgment against defendants Ronnie Kahapea (“Kahapea”) and Mark Johnson (“Johnson” and with Kahapea, “Defendants”) pursuant to Federal Rules of Civil Procedure 56 showing unto the Court the following:

1. On December 11, 2019, PennyMac filed its original Complaint against Defendants, Sitcomm Arbitration Association, Mark Moffett, Sandra Goulette, Kirk Gibbs, and Alaric Scott. (Dkt No. 1.)
2. Johnson was served on December 21, 2019. (Dkt No. 16.) Kahapea was served on December 21, 2019. (Dkt No. 17.)

3. Johnson filed an answer to PennyMac's original complaint, Dkt No. 12, and has filed other sundry documents in this matter, Dkt Nos. 80, 102.

4. On January 3, 2020, Kahapea filed a document in response to PennyMac's original complaint, which the Clerk docketed both as a motion to dismiss and a counterclaim. (Dkt Nos. 10 and 11.) Because of the indecipherable nature of the filing, on January 9, 2020, the Court denied all relief sought in Kahapea's filing without prejudice. (Dkt No. 15.) Kahapea then filed another document that purported to assert a counterclaim, Dkt No. 75, which the Court denied. (Dkt No. 93.)

5. The original Complaint named the trade name Sitcomm Arbitration Association as a defendant rather than Innovated Holdings, Inc. dba Sitcomm Arbitration Association ("Sitcomm"). (Dkt No. 1.) Accordingly, on July 17, 2020, Plaintiff moved to amend the complaint to add "Innovated Holdings, Inc. dba Sitcomm Arbitration Association" as a defendant as well as Bret "Eeon" Jones aka EEON aka Brett Jones aka Brett Toriano Jonestheophilous aka Brett Randoff Toriano Keeffe Henry Kana-Shaphel Hithrappes Jones-Theophilus fka Keefe Branch ("EeoN"), and Rance Magee ("Magee"), who were officers and directors of Sitcomm that were not listed in the original Complaint. (Dkt No. 77.)

6. On August 7, 2020, the Court granted PennyMac's motion to file an amended complaint. (Dkt No. 82.) On August 10, 2020, PennyMac filed its First Amended Complaint (the "FAC") and served the FAC on Defendants. (Dkt No. 83.)

7. The FAC alleges that Kahapea instituted an illegitimate arbitration proceeding against PennyMac (the "Kahapea Arbitration") and obtained a false arbitration award (the "Kahapea Arbitration Award"). (FAC, Dkt No. 83 ¶¶ 29-35.)

8. The FAC also alleges that Johnson instituted an illegitimate arbitration proceeding against PennyMac (the “Johnson Arbitration”) and obtained a false arbitration award (the “Johnson Arbitration Award”). (FAC, Dkt No. 83 ¶¶ 40-46.)

9. More than 14 days have elapsed since the date of service of process of the FAC on Defendants. Johnson has failed to answer or file some other appropriate pleading with the United States District Court for the Southern District of Mississippi, Eastern Division, in response to PennyMac’s FAC, or serve a copy of any answer or other defense which it might have upon the undersigned, attorney of record for PennyMac. (Metral Decl. ¶ 5.)¹ Kahapea has failed to answer or file some other appropriate pleading with the United States District Court for the Southern District of Mississippi, Eastern Division, in response to FAC, or serve a copy of any answer or other defense which it might have upon the undersigned, attorney of record for PennyMac. (Metral Decl. ¶ 5.)

10. PennyMac moves for partial summary judgment against Defendants on the PennyMac’s First Claim for Declaratory Judgment and Second Claim for Permanent Injunction pursuant to Fed. R. Civ. P. 56 because Kahapea and Johnson are in default in FAC and because other courts have already found the Kahapea Arbitration Award and Johnson Arbitration Award invalid.

11. PennyMac has filed concurrently herewith a memorandum of law supporting the positions outlined above, the Declaration of Nicole Metral and the Declaration of Johnny Morton, and relies on the additional documents appended hereto and described below:

Exhibit 1 – Note, dated April 1, 2016 for Kahapea loan	Exhibit 11 – Notice of Arbitration Hearing relating to Johnson Arbitration;
Exhibit 2 – Deed of Trust, dated April 1, 2016 for Kahapea loan	Exhibit 12 – the Johnson Arbitration Award

¹ “Metral Decl.” refers to the Declaration of Nicole Metral that is filed concurrently.

Exhibit 3 – “Conditional Acceptance” sent by Kahapea to PennyMac	Exhibit 13 – payoff statement for Johnson loan
Exhibit 4 – “Legal Notification” sent by Kahapea to PennyMac	Exhibit 14 - Interrogatories, Requests for Production, and Requests for Admission to Kahapea and Proof of Service
Exhibit 5 – Notice of Arbitration Hearing relating to Kahapea Arbitration	Exhibit 15 - Interrogatories, Requests for Production, and Requests for Admission to Johnson and Proof of Service
Exhibit 6 – the Kahapea Arbitration Award	Exhibit 16 – Memorandum Opinion and Order, dated January 5, 2021 in <i>Kahapea v. PennyMac Loan Services LLC et al.</i> , Case No. 2:20-cv-151 (S.D. Miss.)
Exhibit 7 – payoff statement for Kahapea loan	Exhibit 17 – Memorandum Opinion and Order of Dismissal, dated May 29, 2020 in <i>Kahapea v. PennyMac Loan Services LLC et al.</i> , Case No. 1:19-mc-00028 (D.N.M.)
Exhibit 8 – Note, dated June 12, 2015 for Johnson loan	Exhibit 18 – Memorandum Opinion and Order Awarding Attorneys’ Fees and Costs, dated May 15, 2020 in <i>Kahapea v. PennyMac Loan Services LLC et al.</i> , Case No. 1:19-mc-00028 (D.N.M.)
Exhibit 9 – Deed of Trust, dated June 12, 2015 for Johnson loan	Exhibit 19 – Memorandum Opinion, dated September 8, 2020 and Minute Sheet, dated August 31, 2020 in <i>Johnson v. PennyMac Loan Services LLC</i> , 3:19cv837 (E.D. Va.)
Exhibit 10 – “Conditional Acceptance” sent by Johnson to PennyMac	

12. As set forth in this Motion and the Memorandum in Support, PennyMac submits that its Motion is well-taken and requests that the Court issue an order: (1) on PennyMac’s First Cause of Action declaring that no valid and enforceable contract or consent to arbitrate exists between the parties to this action and that the Kahapea Arbitration Award and the Johnson Arbitration Award were issued without authority, consent, or jurisdiction, and are therefore void and unenforceable as a matter of law and that the same be vacated and set aside; and (2) on PennyMac’s Second Cause of Action enjoining Defendants forever from conducting any purported arbitration proceeding against PennyMac.

Dated: January 25, 2021

Respectfully submitted,

/s/ Nicole Bartz Metral

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Counsel for Plaintiff

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is **BLANK ROME LLP**, 2029 Century Park East, 6th Floor, Los Angeles, California 90067.

On **January 25, 2021**, I served the foregoing document(s):

**PLAINTIFF PENNYMAC LOAN SERVICES, LLC'S MOTION FOR PARTIAL
SUMMARY JUDGMENT AGAINST DEFENDANTS RONNIE KHAPEA AND MARK
JOHNSON**

on the interested parties in this action addressed and sent as follows:

SEE ATTACHED SERVICE LIST

- ☒ **BY ENVELOPE:** by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelope(s) addressed as indicated and delivering such envelope(s):
- ☒ **BY CERTIFIED MAIL:** I caused such envelope(s) to be deposited in the mail at Los Angeles, California with postage thereon fully prepaid to the office or home of the addressee(s) as indicated. I am "readily familiar" with this firm's practice of collection and processing documents for mailing. It is deposited with the U.S. Postal Service on that same day, with postage fully prepaid, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- ☒ **BY FEDEX:** I caused such envelope(s) to be deposited in a box or other facility regularly maintained by FedEx, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents in an envelope designated by the said express service carrier, addressed as indicated, with delivery fees paid or provided for, to be transmitted by FedEx.
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on **January 25, 2021**, at Los Angeles, California.



Charman Bee

SERVICE LIST

Pennymac Loan Services, LLC v. Sitcomm Arbitration Association, et al.;

Case No. 2:19-cv-00193-KS-MTP

BY CERTIFIED MAIL:

Ronnie Kahapea P.O. Box 875 Volcano, HI 96785	Defendant
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BY FEDEX:

Mark Johnson 451 May Lane Louisa, VA 23093	Defendant
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Kirk Gibbs 4115 Lawrenceville Rd. PMB 8119 Lilburn, GA 30047	Defendant
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Sandra Goulette 3007 Crescent Hill Drive Laurel, MS 39440	Defendant
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Mark Moffett 345 Coon Jeffcoat Road Soso, MS 39480	Defendant
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Rance Magee 11294 Rose Road Emmett, MI 48022	Defendant
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Innovated Holdings, Inc. dba Sitcomm Arbitration Association C/O Registered Agents, Inc. 30 N. Gould Street, Suite R Sheridan, WY 82801	Defendant
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Brett "Eeon" Jones 304 South Jones Boulevard Unit Eeon-1967 Las Vegas, NV 89107	Defendant
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